

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



August 12, 2021

The Honorable Charles Baker
Governor of Massachusetts
24 Beacon Street
Room 360
Boston, MA 02133

Dear Governor Baker:

Thank you for your waiver request submission to the U.S. Department of Labor (Department) regarding certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the statewide workforce development system (enclosed). The waiver request was received on June 10, 2021. This letter provides the Employment and Training Administration's (ETA) official response to your request. This action is taken under the Secretary's authority to waive certain requirements of WIOA Title I, Subtitles A, B, and E, and Sections 8–10 of the Wagner-Peyser Act in WIOA Section 189(i).

Requested Waiver: Waiver of the obligation of eligible training providers (ETP) to report performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and 122 and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.

ETA Response: ETA does not approve this waiver. As communicated in the previous approval for this waiver, dated June 23, 2020, and Training and Employment Guidance Letter (TEGL) No. 08-19: *Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs*, ETA is discontinuing state use of this waiver effective June 30, 2021.¹ ETA acknowledges that collecting and reporting data on all students creates additional reporting responsibilities for WIOA training providers; however, public workforce system customers deserve quality training with proven success for positive outcomes. The information WIOA requires is one of the few mechanisms available in government to identify which training provider programs truly make a difference. The Commonwealth must report all student performance information in the Program Year (PY) 2021 report, which is due to ETA on October 1, 2022.

ETA staff will continue to work with Massachusetts to provide technical assistance to help overcome the data collection and reporting challenges, with the end goal of ensuring that all states have systems in place to report on all required data elements. ETA guidance issued in TEGL No. 08-19 and TEGL No. 03-18, *Eligible Training Provider (ETP) Guidance under the*

¹ Employment and Training Administration. TEGL No. 08-19: Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5389. Published January 2, 2020.

Workforce Innovation and Opportunity Act, provides implementation suggestions for building a quality ETP list and recommendations for reporting.²

ETA is available to provide technical assistance to you in support of your goals. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,

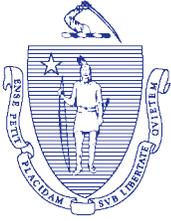


Suzan G. LeVine
Acting Assistant Secretary

Enclosure

cc: Alice Sweeney, Director, MassHire Department of Career Services
Leo Miller, Northeast Regional Administrator, ETA
Carmen Rodriguez, Federal Project Officer, ETA

² Employment and Training Administration. TEGE No. 03-18, *Eligible Training Provider (ETP) Guidance under the Workforce Innovation and Opportunity Act*. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3527.
Published August 31, 2018.



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
MASSHIRE DEPARTMENT OF CAREER SERVICES

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ROSALIN ACOSTA
SECRETARY

ALICE L. SWEENEY
DIRECTOR

June 10, 2021

The Honorable Marty J. Walsh, Secretary of Labor
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Honorable Walsh:

Subject: Massachusetts WIOA Waiver Request: Eligible Training Provider List Requirements (request for extension)

The Commonwealth of Massachusetts' Executive Office of Labor and Workforce Development (EOLWD) MassHire Department of Career Services (MDCS) is requesting a one-year extension of our current ETP Waiver from the requirements outlined in the WIOA at Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 through 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the state's ETPL. The current waiver is due to expire on June 30, 2021.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Alice Sweeney".

Alice Sweeney

Cc: Leo Miller, Regional Administrator, R1/R2
Carmen Rodriguez, FPO

MASSACHUSETTS WIOA WAIVER EXTENSION REQUEST

Statutory and/or Regulatory Requirements to be Waived - Eligible Training Provider List Requirements (request for extension)

The Commonwealth of Massachusetts' Executive Office of Labor and Workforce Development (EOLWD) MassHire Department of Career Services (MDCS) is requesting a one-year extension of our current ETP Waiver from the requirements outlined in the WIOA at Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 through 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the state's ETPL. The current waiver is due to expire on June 30, 2021.

Background

With the passage of WIOA, the Commonwealth of Massachusetts implemented the new law's Eligible Training Provider List (ETPL) provisions. In July 2016, the state launched its new ETPL requirements and some new features for providers related to data entry. MA's revised ETPL requirements provide an improved and enhanced vendor experience compared to the state's former requirements. Massachusetts is currently working to leverage existing data systems and data sources to assist with meeting the WIOA ETPL performance reporting requirements.

On May 9, 2021, the MassHire Department of Career Services (MDCS) concluded a procurement and selected a vendor to develop a Portal by which training providers will submit their student information. MDCS anticipates that the vendor will begin work in June 2021. The Portal will be an adjunct to the Massachusetts TrainingPro application used by providers to submit their training courses and credentials to be included on the Eligible Training Provider List (ETPL). Our expectation is that the Portal will be deployable in November/December 2021.

Massachusetts has faced several **challenges** while working to implement the WIOA ETPL requirements, which include:

- Ensuring that local areas have sufficient numbers of, and diversity of, training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs.
- Ensuring fairness in the process of determining training provider eligibility.
- Reducing the burden of the requirement for on training providers to submit performance information to the state, which they may not be readily accessible.
- Much of the performance information is self-reported through surveys, etc., which makes it difficult to get accurate performance data since students may not respond to surveys and, as a result, schools may just provide performance information they previously collected without resurveying students.
- Proprietary schools do not currently have a statewide system to report student data, and as such, there is no way to automatically match students with other data sources to calculate outcomes. This results in a large burden on these types of, in some cases, what tends to be the smaller training providers.

- Proprietary schools would have to implement a new process to collect sensitive information such as social security numbers, etc., on all students for the state to match wage and earnings information on students utilizing ETPL programs, creating the potential for students to be left open to identity theft, privacy considerations, etc.
- Training providers are unprepared to collect and provide information on all students once they leave or graduate from the program, thus providers elect not to be on the ETPL, resulting in limited consumer choice, especially for proprietary schools.
- WIOA-paid students at Community Colleges represent a small portion of their enrollment. Non-WIOA paid students are more likely to be planning to enter training-related employment after an entire suite of courses over a longer period of time. Therefore including these (non-WIOA) students in the cohort that count toward that course's performance unfairly skews the outcome in a negative direction.
- Providing information on eligible training programs to WIOA participants in a way that helps make good/informed decisions about how to use their ITAs is challenged by the inclusion of non-WIOA students in performance calculation.

How the Waiver has Helped

- The waiver has removed the most significant disincentive for schools and training providers to participate in the ETPL, in anticipation of maximizing the available marketplace of training curriculum.
- The waiver has resulted in more numerous and varied training offerings for individuals utilizing ITAs via the public workforce system (in other words, greater consumer choice).
- More training providers can lead to lower cost options.
- MA has seen greater utilization of the ETPL by individuals pursuing training in the Commonwealth related to jobs that are in-demand by employers now and in the future.
- Improved overall performance outcomes for individuals pursuing training via ITAs due to broader customer choice.
- Stronger partnerships and relationships between training providers and the public workforce system.
- Enhanced ability of local boards to respond quickly and efficiently to immediate local job seeker and employer needs.

Actions Undertaken to Remove State or Local Statutory or Regulatory Barriers

There are currently no state or local statutory or regulatory barriers to implementing the requested waiver. The Commonwealth of Massachusetts regulations and policy statements are in compliance with current federal law.

Waiver Goals and Outcomes

Goals and outcomes related to the extension of this waiver include:

This waiver extension will allow our training providers sufficient time to develop their internal processes to obtain student data and transmit it through the Portal to MDCS. MDCS is planning meetings with training providers through late-Spring and Summer 2021. Portal system requirements will be available to training providers in late Summer 2021.

The waiver also will allow MDCS sufficient time to test and establish processes for the production of the ETP Report (ETA 9171). The one-year extension will permit MDCS to obtain additional performance data on courses to present to the public.

The MA ETPL currently lists 171 approved vendors, approximately 50 of which are educational institutions that do not currently collect the data required for WIOA. We are concerned that without this extension 29% of the current training providers will decide not to participate because of the burden to *quickly* develop processes, including obtaining permissions from students and their own legal staff to provide the student information by January 2022, the latest we could start collecting the data so we can submit an ETA 9171 by October 1, 2022.

A one-year extension of this waiver will alleviate the most significant disincentive for schools and training providers to participate in the ETPL this year and result in greater utilization of the ETPL by individuals pursuing training in the Commonwealth related to the significant numbers of jobs that are in-demand by employers now as we emerge from the COVID-19 pandemic as well as enhanced ability of local boards to respond quickly and efficiently to immediate local job seeker and employer needs.

The additional time will also serve to strengthen established partnerships and relationships between training providers and the public workforce system.

Individuals Impacted by the Waiver

Individuals who access training services in Massachusetts via ITAs, Commonwealth of Massachusetts staff and partner staff, AJCs, subcontracted service provider staff, and training providers will benefit from this waiver.

Monitoring Progress and Implementation

Annual WIOA on-site programmatic reviews will include an evaluation of how waivers are impacting local programs to ensure programmatic goals and outcomes are being met.

State staff involved with the administration of the ETPL and performance reporting will periodically examine the appropriateness and the effectiveness of this waiver. This strategy ensures that the goals described above, as well as those outlined in the State's Combined Plan, are consistent with established objectives of the WIOA and federal and state regulations.

Public Review and Comment

WIOA ETPL data collection requirements have been the subject of ongoing workforce system/training provider and public discussion during the past several years. This waiver was posted for public review and comment with the WIOA Combined State Plan; no objections or negative comments were received. Over the past year, we have been in constant conversation with community colleges, vendors and the workforce system with regard to the impact of implementing student data collection requirements when the current waiver expires. All continue to express their original concerns and as well as encouragement and support for the extension of this waiver in order to permit the system the additional time necessary to implement this requirement.